

## REMARKS/ARGUMENTS

Favorable consideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 9-20 are pending in the application. Claims 9, 12, 15 and 18 are amended.

In the outstanding Office Action, Claims 5 and 6 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 3-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakamura et al. (U.S. Patent No. 5,740,168) in view of Adachi (U.S. Patent No. 6,084,884).

Claims 9, 12, 15 and 18 are amended to correct typographical errors. No new matter is added.

Briefly recapitulating, independent Claims 9, 12, 15 and 18 are directed to a radio communication method and corresponding radio communication system employing CDMA (Code Division Multiple Access) for radio access and providing multi-rate transmission. Claims 9, 12, 15 and 18 differ from previously examined Claims 3-6 by reciting a feature of transmitting a completion message to notice completion of a step of switching at one of the plurality of mobile stations. The invention ensures accurate synchronization of the base station and mobile.<sup>1</sup>

Nakamura describes a method for code switching, including the transmission of a timing signal from a base station to a mobile station.<sup>2</sup> However, Nakamura does not disclose or suggest sending a base channel completion message after receiving a completion message (indicating the release of the first code). Thus, Nakamura fails to disclose or suggest “transmitting a completion message to notice completion of the step of switching at one of the plurality of mobile stations” as recited in Claims 9 and 12. Similarly, Nakamura fails to disclose or suggest a “code switching unit configured ... to transmit a completion message to

<sup>1</sup> Specification, paragraphs 121-128.

<sup>2</sup> Nakamura, Figures 420B and 25.

notice completion of the step of switching at the one the plurality of mobile stations” as recited in amended Claims 15 and 18. Applicants have considered the Adachi reference and submit Adachi does not cure the deficiencies of Nakamura.

MPEP §706.02(j) notes that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Also, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Without addressing the first two prongs of the test of obviousness, Applicants submit that the Official Action does not present a *prima facie* case of obviousness because both Nakamura and Adachi fail to disclose all the features of recited in Applicants’ claimed invention.

Accordingly, in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Michael E. Monaco  
Registration No. 52,041

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)